IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Mat.Appeal.No. 282 of 2007()

AGAINST THE ORDER DATED 28/02/2007 IN IA 3001/2005,IA 3000/06 IN OP973./2003 of FAMILY COURT, THIRUVALLA

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PETITIONER:
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1. PURUSHOTHAMAN NAIR,MURINGOOR,
KAROTTU VEETTIL,KANGAZHA PO,KANGAZHA VILLAGE.

2. PADMAKUMARI,VAYALUNKAL VEETTIL,
MANIMALA P.O.,VELLAVOOR VILLAGE.

3. PRASANNA KUMARI,KANDALLOOR VEETTIL,
THURUTHIKADU MURIYIL,
KALLOOPPARA VILLAGE.

4. GIRIJA KUMARI,ARPPUKKARA VEETTIL,
ULLAYAM P.O.,VELLAVOOR VILLAGE.

5. MINIMOL,PADINJARE MURIYIL,
CHAKKAMPUZHA,PALA P.O.,
PALA.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:

REMADEVI,ERUMPINICKAL VEETTIL
NOOROMMAVU PO,ANICKADU VILLAGE,PATHANAMTHITTA.

BY ADV. SRI.BIJU GEORGE
SRI.SUNNY XAVIER

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

Mat. Appeal No.282 of 2007

Dated 7th September, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the orders in I.A.Nos.3000/06 and 3001/06 in O.P.No.973/03 on the file of the Family Court, Thiruvalla. The applications were filed for condoning the delay in filing the petition to set aside the ex parte order and to set aside the ex parte order. Appellants are the petitioners. They claim to be the legal heirs of the deceased second respondent in O.P.973/03, their mother. The respondent herein is the daughter-in-law of the said deceased second respondent, Kalyaniamma Sarasamma. The Family Court declined to consider the matter on merits on the ground that the petitioners were not parties to the original proceedings. Naturally, when their mother was alive, the petitioners cannot be on the party array. They are entitled to come on the party array in their capacity as legal heirs only after the death of their mother Kalyaniamma Sarasamma. It is also seen that the petitioners herein were impleaded as additional respondents 5 to 9 in the execution petition.

2. Having heard counsel on both sides, we are of the view that it is only in the interests of justice that the petitioners are given an opportunity to contest the matter on merits. Accordingly, we set aside the impugned orders and allow I.A.Nos.3000/06 and 3001/06 in O.P.973/03. The Family Court shall dispose of the matter within a period of four months from the date of appearance of the parties. Parties will appear before the Family Court on 15.10.2007.

I.A.1274/07 : Dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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